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October 15, 2011

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Permitted Oral *Ex Parte* Presentation
WC Docket No. 10-90; GN Docket No. 09-51; WC Docket No. 07-135; WC Docket No. 05-337;
CC Docket No. 01-92; CC Docket No. 96-45 and WC Docket No. 03-10

Dear Ms. Dortch:

Representatives of the State of Hawaii (“Hawaii”) met with Commission officials on October 12, 2011 to discuss the intercarrier compensation (“ICC”) and universal service fund (“USF”) proceedings, the docket numbers for which are listed above. In separate meetings, the State representatives met with Margaret McCarthy, Policy Advisor for Commissioner Michael J. Copps; Christine Kurth, Policy Director and Wireline Counsel for Commissioner Robert McDowell; Angela Kronenberg, Wireline Legal Advisor for Commissioner Mignon L. Clyburn; and Joseph Cavender of the Wireline Competition Bureau. Attending the meetings on behalf of the State were Everett Kaneshige, Deputy Director of the Department of Commerce & Consumer Affairs; Herbert Marks of Squire Sanders & Dempsey; and the undersigned.

During the meetings, the State representatives emphasized two major points. First, in order to ensure that ongoing broadband development efforts are not curtailed in those portions of the State that are designated as Hawaiian Home Lands (“HHL”), the Commission should adopt a definition of Tribal Lands for purposes of this proceeding that includes the HHLs. Although the Commission has previously included the HHLs in its definition of Tribal Lands for purposes of universal service funding, the Commission, without explanation, omitted the HHLs from its definition of Tribal Lands in its National Broadband Plan.

October 15, 2011

Page 2

Second, the State representatives explained that the significant broadband development needs of Hawaii extend well beyond the HHLs. To this end, the State representatives expressed concern that many aspects of the Commission's draft ICC/USF reform plan do not address the unique challenges that exist in attempting to provide broadband in such highly remote and insular areas as Hawaii. The Commission was therefore urged to acknowledge in any order that is adopted in this proceeding that a unique approach is needed in order to bring reliable and affordable high-speed broadband to remote areas of Hawaii. The Commission was further urged to explore in a further notice of proposed rule making the challenges that exist in Hawaii and other highly insular areas and the unique approaches that would be necessary to overcome these challenges.

The attached presentation was distributed during the meetings and formed the basis of the discussion. Please contact the undersigned if you have any questions about this filing.

Sincerely,

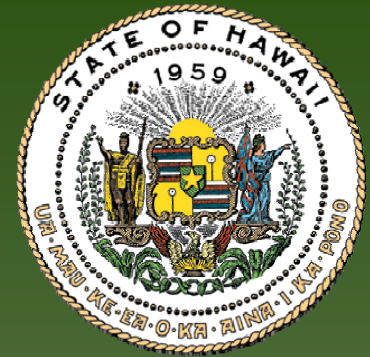
/s/ Bruce A. Olcott

Bruce A. Olcott

Counsel to the State of Hawaii

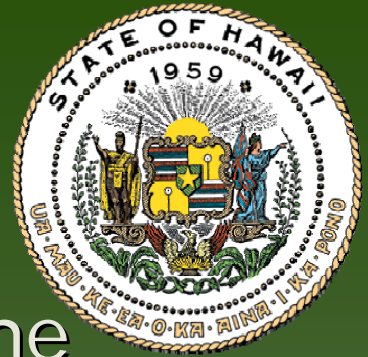
Attachment

State of Hawaii Department of Commerce and Consumer Affairs



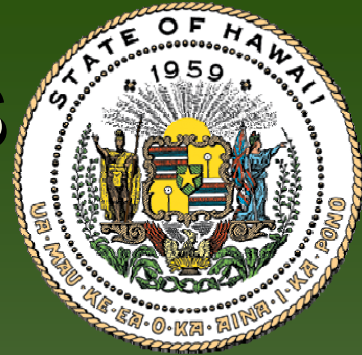
October 12, 2011

Hawaii's Broadband Goals



- ◆ Governor Abercrombie introduced the State Broadband Initiative in August 2011
 - Ubiquitous access to gigabit-per-second broadband at affordable prices without leaving behind underserved areas
 - Increasing broadband for economic development, health care, education, public safety, governmental efficiency and civic engagement
 - Greater trans-pacific fiber connectivity and equitable access for all Hawaiian islands
 - Modern regulatory and permitting to increase investment in broadband infrastructure and services
- ◆ Concurrently, ARRA grants are funding effort to bring gigabit-per-second broadband to all public schools and libraries in Hawaii

Hawaii's Unique Conditions



- ◆ Hawaii faces significant challenges in making broadband widely available
 - The state is very insular, more than 2500 miles from the mainland
 - Some of its six major islands are separated by more than 100 miles of deep ocean
 - 30% of State's population live outside Oahu, with very low density on most islands
 - Mountainous rocky terrain and dense rain forest forces most infrastructure along coasts, where it is often damaged by salt corrosion, storms, landslides and volcanic activity

FCC's USF/ICC Draft Order



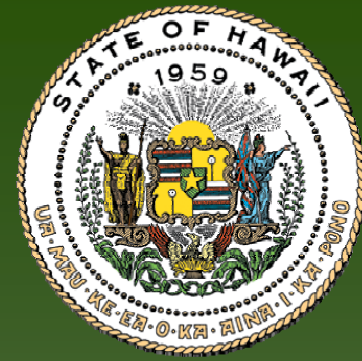
- ◆ Connect America Fund “will include dedicated support for Tribal areas”
 - “Broadband and mobile service remains far behind the national average”
- ◆ The NPRM defined tribal areas as including the Hawaiian Home Lands
 - Hawaiian Home Lands (HHLs) are areas held in trust by the State for native Hawaiians, pursuant to the federal Hawaiian Homes Commission Act, 1920

USF/ICC Reform and Hawaii

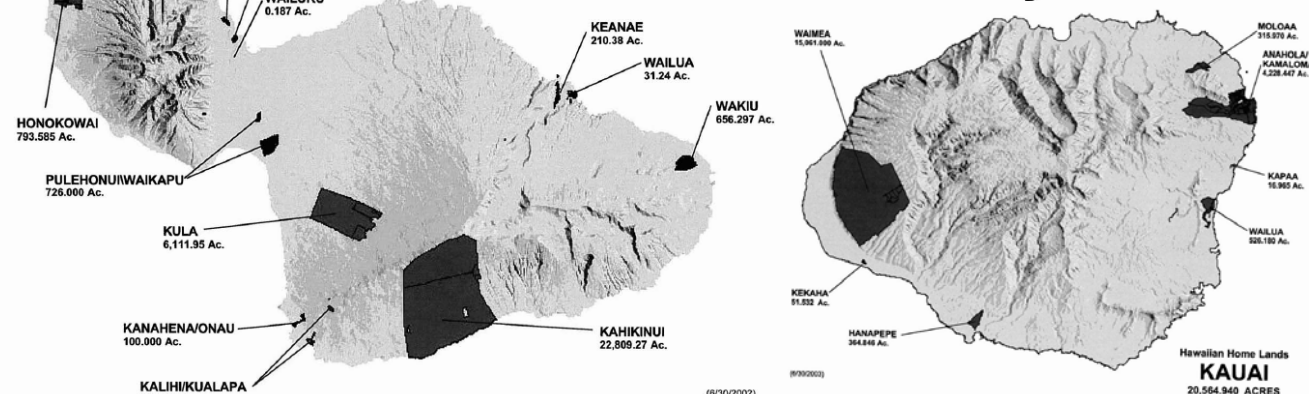
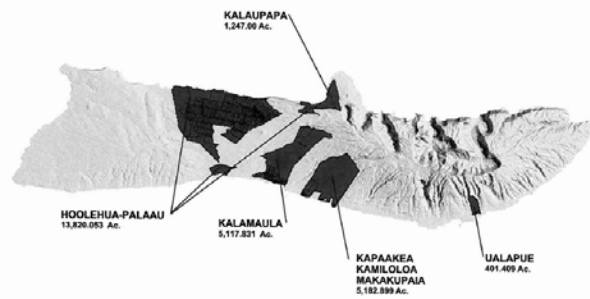
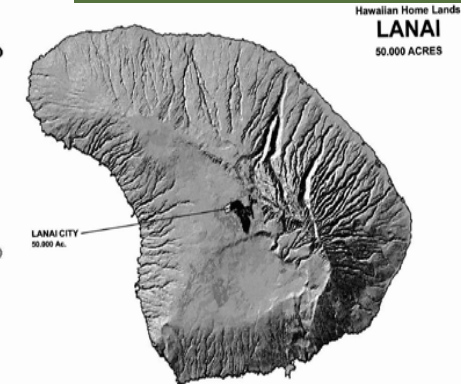
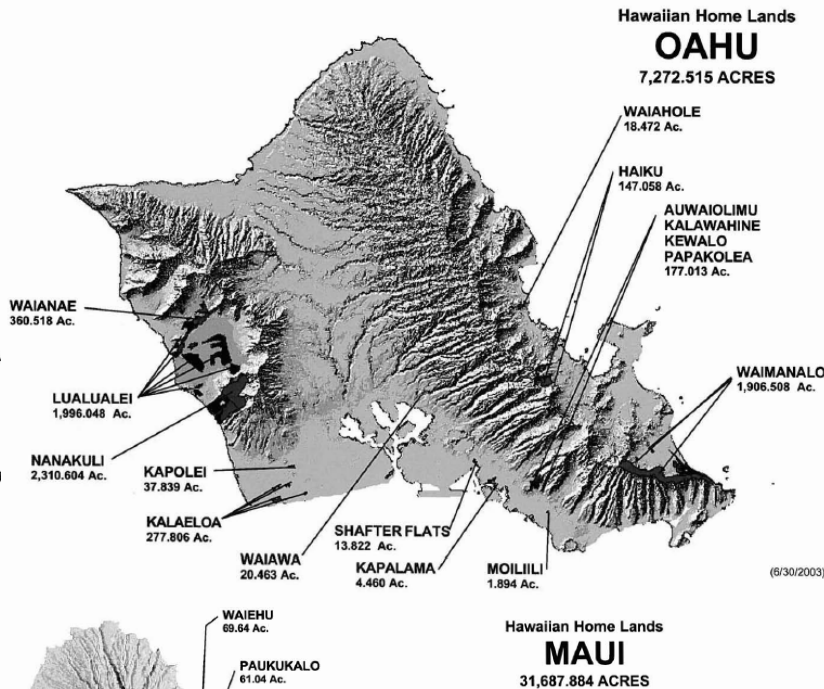
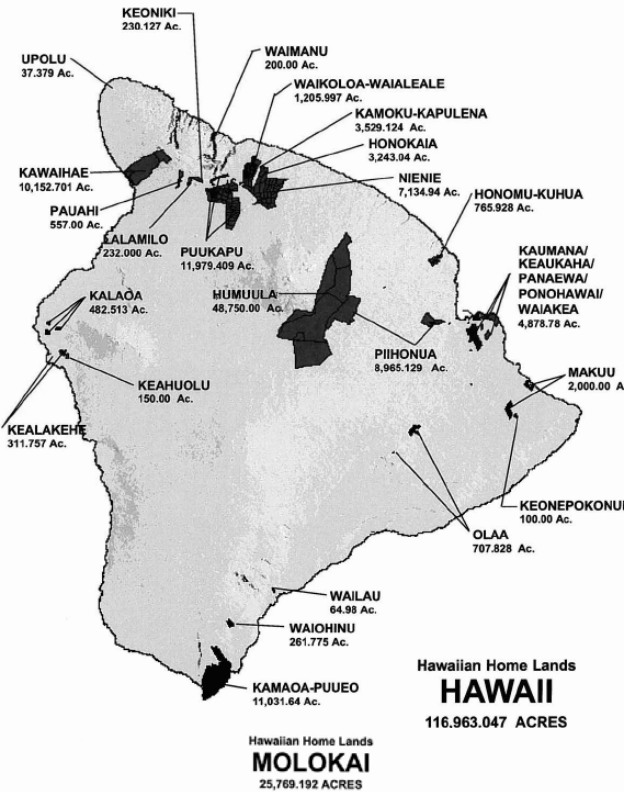


- ◆ Tremendous need continues to exist in the HHLs for broadband development
 - The needs also exist in areas outside the HHLs
 - Middle mile broadband infrastructure needed to serve the HHLs could be leveraged to provide broadband in areas around the HHLs
- ◆ The Commission should adopt a solution that serves both the continuing needs of the HHLs and other highly remote, unserved and insular areas of Hawaii

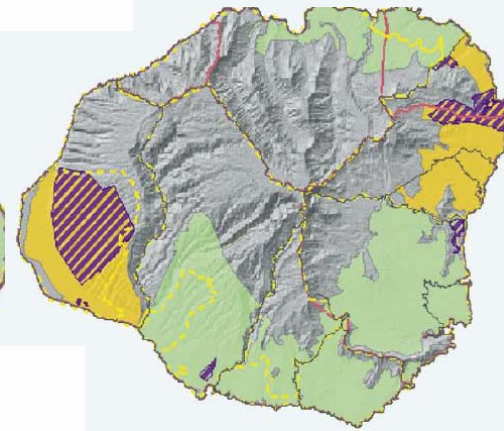
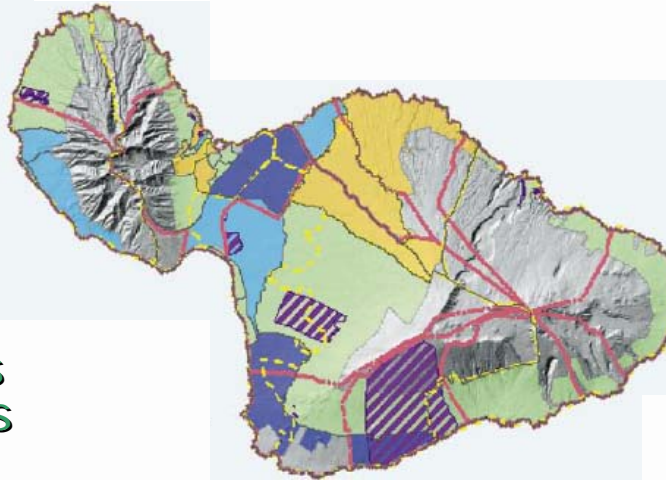
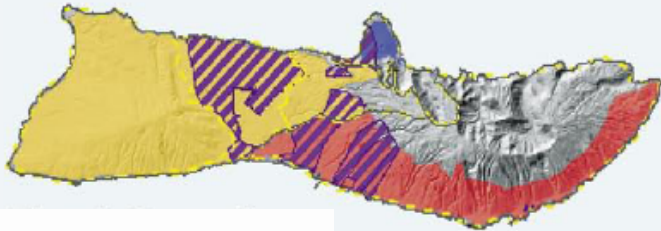
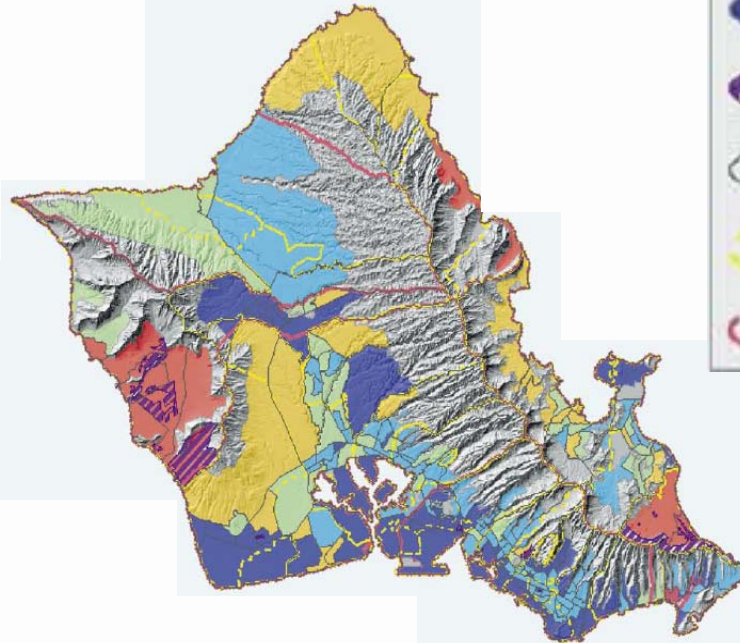
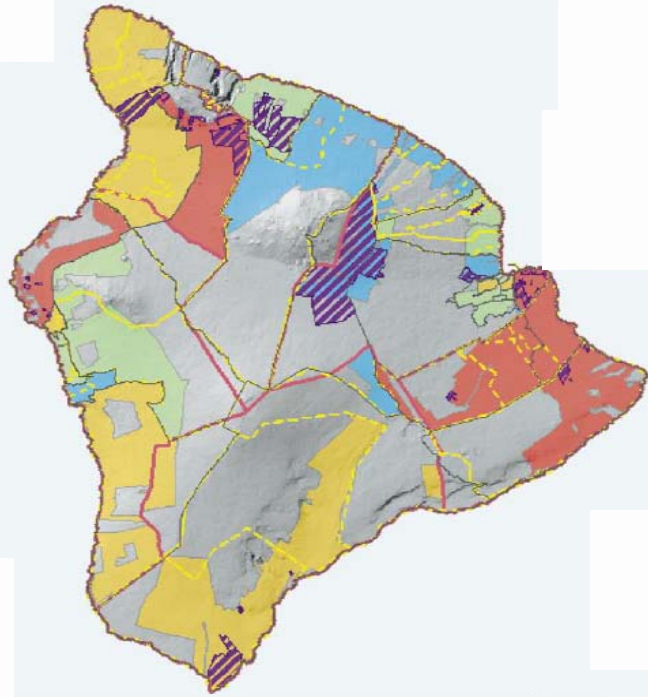
Hawaiian Home Lands*



*Not to scale

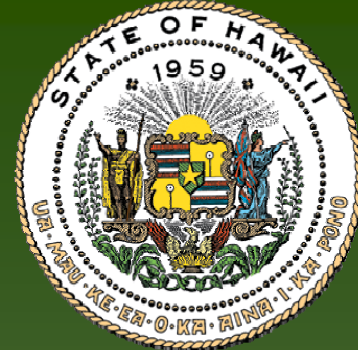


Native Hawaiian Population



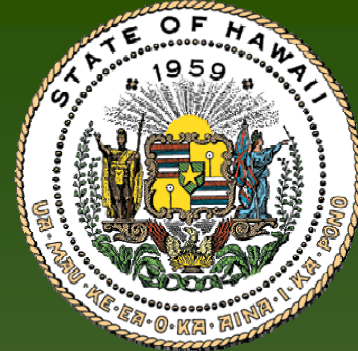
Many Native Hawaiians
do not live on the HHLs

USF/ICC Reform and Hawaii



- ◆ Hawaiian Telcom advocates designating entire State as tribal lands, as was done for Alaska
- ◆ The Commission could also provide special treatment for areas “near” tribal lands
 - FCC adopted the “near” tribal lands approach in previous USF rules, but stayed rules due to cities near tribal lands
 - Could resolve now by adopting “near” tribal land approach, but only for areas unserved by broadband
- ◆ A “near” tribal lands approach would help areas in Hawaii near the HHLs, but it may not help all areas of Hawaii that warrant assistance

USF/ICC Reform and Hawaii



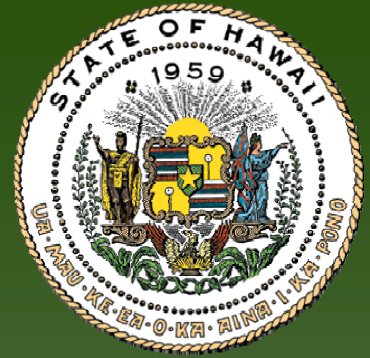
- ◆ Special funding access could also be created for highly insular areas
 - All highly insular areas (Hawaii, Alaska, and US territories) are significantly lacking in broadband
 - An insular fund would have a strong statutory basis
 - ◆ Although Section 254(b)(3) may not require the creation of a special insular fund, it imposes an obligation to ensure that the needs of insular areas are met
 - ◆ The FCC's order last year rejecting Puerto Rico's request for an insular fund rested primarily on:
 - A perception of diminishing needs for support in Puerto Rico
 - The goal of developing a comprehensive approach to USF
- ◆ Special funding access for highly insular areas would not burden CAF if it was available only to areas that are not already served by broadband



USF/ICC Reform and Hawaii

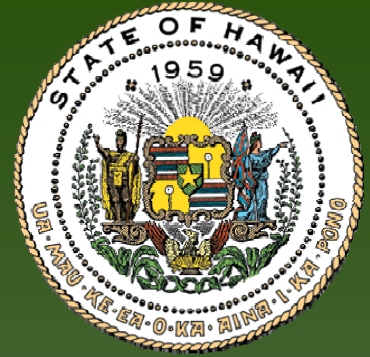
- ◆ Regardless of the approach employed, the Commission should acknowledge that special treatment is necessary for Hawaii
 - Hawaii needs unique access to CAF support for broadband deployment
 - The entire State should not be used as a study area for purposes of determining eligibility
 - Carriers should be permitted to seek funding for smaller more targeted geographic areas
 - Funding should be available for middle mile and inter-island infrastructure (recommended by the National Broadband Plan)

USF/ICC Reform and Hawaii



- ◆ Hawaii cannot rely on alternative technologies in highly remote areas
 - Satellite licensees have historically resisted serving consumers in Hawaii
 - Satellite requires much larger receive antennas in Hawaii and is often obscured by mountains and foliage
 - Satellite latency is excessive for voice communications
 - Microwave is also unreliable due to foliage and tropical weather conditions
 - Wireless broadband is also encumbered by heavy foliage, deep canyons and tropical weather conditions
 - Wireless broadband also requires backhaul and middle mile support, which is often unavailable in the State

USF/ICC Reform and Hawaii



- ◆ A special USF solution for Hawaii would not burden the CAF
 - Most State residents live in communities where broadband is provided by at least one carrier
 - Funding is therefore needed for consumers in the remaining areas of the State
 - Many unserved remote areas of the State are adjacent to HHLs, allowing for leveraging of HHL infrastructure with additional CAF support
 - Although providing broadband to the remaining customers may be challenging, it will not be a burden to the overall fund